IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Ved Prakash Sharma. Vs. Labour Enforcement Officer (Central) Jodhpur & Anr.

S.B.CR.MISC. PETITION NO.743/2005

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Date of Order: October 10, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Sumeet Mehta, for the petitioner.
Mr. D.L.R.Vyas, for Mr. B.M.Bohra for the non-petitioners.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dated 8.7.2004 passed by the Additional Chief Judicial Magistrate No.6, Jodhpur (for short, "the trial court" hereinafter) in Criminal Case No.245/2001, whereby the application filed by the petitioner was dismissed and the matter was posted for reading over the substance of charges to the petitioners.

Heard learned counsel for the parties. Learned counsel for the petitioner has relied on a decision of the Hon'ble Supreme

Court in Steel Authority of India Ltd., & ors. etc. etc. Vs. National Union Water Front Workers & ors. etc. etc., 2001 (9) SRJ 529, wherein the Hon'ble Supreme Court held that the Contract Labour (Regulation and Abolition) Act, 1970, Section 10 (1) and Section 10 (2), Central Government Notification dated 9.12.1976, prohibiting employment of contract labour in any process operation or other work in any establishment, issued in contravention of Section 10 of the Act, is quashed prospectively from the date of the judgment. It was further clarified by Their Lordships that inasmuch as the impugned notification issued by the Central Government on December 9, 1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively, i.e. from the date of this judgment and subject to the clarification that on the basis of this judgment, no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

In the instant case, the notification dated 9.12.1976 has not attained finality and the matter is at the initial stage and even the trial has not commenced. In the circumstances, therefore, since the Notification has been quashed by the Hon'ble

Apex Court, in my view, no further proceeding can be allowed to be continued on the basis of such facts.

Consequently, the petition is allowed. The order impugned dated 08.7.2004 passed by the Additional Chief Judicial Magistrate No.6, Jodhpur in Criminal Case No.245/2001 is set aside and the proceedings pending before the trial Court against the petitioner are hereby quashed. The stay petition also stands disposed of.

[H.R. PANWAR], J.

m.asif/-